



January 11, 2008

## SENATE BILL No. 21

DIGEST OF SB 21 (Updated January 8, 2008 12:47 pm - DI 73)

**Citations Affected:** IC 6-1.1; noncode.

**Synopsis:** Property taxation. Provides that in a county that, after December 31, 2007: (1) issues bills or revised bills for property taxes first due and payable in 2007; or (2) issues a reconciling statement for property taxes first due and payable in 2007; the county council may adopt a resolution authorizing the county auditor and the county treasurer to apply the additional 2007 homestead credit as a credit against property tax liability or as a refund. Provides that in a county: (1) that, after December 31, 2007, issues bills or revised bills for property taxes first due and payable in 2007 or issues a reconciling statement for property taxes first due and payable in 2007; and (2) in which the percentage increase in property taxes billed exceeds 30% for more than one-half of the homesteads in the county; the amount of the additional 2007 homestead credit for a taxpayer is equal to the greater of the amount required to reduce the percentage increase in taxes billed to 35% or the amount required to provide a 20% reduction in the increase in taxes billed. Provides that in such a county, a taxpayer is eligible to receive the additional 2007 homestead credit if the percentage increase in taxes billed to the taxpayer is at least 10%. Provides that in calculating eligibility for and the amount of the additional 2007 homestead credit under these provisions, any increase in taxes billed that results from the new construction of a homestead on the taxpayer's property is excluded. Provides that a county council may adopt an ordinance to allow a taxpayer to make installment payments of taxes due under a reconciling statement. Requires the ordinance to specify: (1) the reconciling statement to which the ordinance applies; and (2) the installment due dates for taxpayers that choose to make installment payments. Specifies penalties for unpaid installments.

**Effective:** Upon passage.

**Young R Michael, Lubbers, Breaux,  
Miller, Merritt, Delph, Waltz,  
Howard, Jackman, Deig**

November 20, 2007, read first time and referred to Committee on Tax and Fiscal Policy.  
January 10, 2008, amended, reported favorably — Do Pass.

SB 21—LS 6304/DI 73+



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January 11, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## SENATE BILL No. 21

A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-1.1-22.5-12, AS AMENDED BY P.L.219-2007,  
2       SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 12. (a) Except as provided by subsection (c),  
4       each reconciling statement must indicate:

5               (1) the actual property tax liability under this article on the  
6               assessment determined for the assessment date for the property  
7               for which the reconciling statement is issued;

8               (2) the total amount paid under the provisional statement for the  
9               property for which the reconciling statement is issued;

10              (3) if the amount under subdivision (1) exceeds the amount under  
11              subdivision (2), that the excess is payable by the taxpayer:

12                      (A) as a final reconciliation of the tax liability; and

13                      (B) not later than:

14                              (i) thirty (30) days after the date of the reconciling  
15                              statement; ~~or~~

16                              (ii) if the county treasurer requests in writing that the  
17                              commissioner designate a later date, the date designated by  
18                              the commissioner; **or**

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(iii) the date specified in an ordinance adopted under section 18.5 of this chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(b) If, upon receipt of the abstract referred to in section 6 of this chapter, the county treasurer determines that it is possible to complete the:

(1) preparation; and

(2) mailing or transmittal;

of the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement, the county treasurer may request in writing that the department of local government finance permit the county treasurer to issue a reconciling statement that adjusts the amount of the second installment that was specified in the provisional statement. If the department approves the county treasurer's request, the county treasurer shall prepare and mail or transmit the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement.

(c) A reconciling statement prepared under subsection (b) must indicate:

(1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;

(2) the total amount of the first installment paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount of the second installment that is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) November 10; or

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

SECTION 2. IC 6-1.1-22.5-18, AS AMENDED BY P.L.219-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 18. For purposes of IC 6-1.1-24-1(a)(1):

(1) the first installment on a provisional statement is considered to be the taxpayer's spring installment of property taxes;

(2) except as provided in subdivision (3) **or section 18.5 of this chapter**, payment on a reconciling statement is considered to be due before the due date of the first installment of property taxes payable in the following year; and

(3) payment on a reconciling statement described in section 12(b) of this chapter is considered to be the taxpayer's fall installment of property taxes.

SECTION 3. IC 6-1.1-22.5-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) A county council may adopt an ordinance to allow a taxpayer to make installment payments under this section of a tax payment due under a reconciling statement issued under this chapter or any other provision.**

**(b) An ordinance adopted under this section must specify:**

(1) the reconciling statement to which the ordinance applies; and

(2) the installment due dates for taxpayers that choose to make installment payments.

**(c) An ordinance adopted under this section must give taxpayers in the county the option of:**

(1) making a single payment of the tax payment due under the reconciling statement on the date specified in the reconciling statement; or

(2) paying installments of the tax payment due under the reconciling statement over the installment period specified in the ordinance.

**(d) If the total amount due on an installment date under this section is not completely paid on or before that installment date, the amount unpaid is considered delinquent and a penalty is added to the unpaid amount. The penalty is equal to an amount determined as follows:**

**(1) If:**

**(A) the delinquent amount of real property taxes is completely paid on or before the date thirty (30) days after the installment date; and**

**(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for the same parcel;**

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the amount of the penalty is equal to five percent (5%) of the delinquent amount.

(2) If:

(A) the delinquent amount of personal property taxes is completely paid on or before the date thirty (30) days after the installment date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for a personal property tax return for property in the same taxing district;

the amount of the penalty is equal to five percent (5%) of the delinquent amount.

(3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the delinquent amount.

(e) An additional penalty equal to ten percent (10%) of any taxes due on an installment date that remain unpaid shall be added on the day immediately following the date of the final installment payment.

(f) The penalties under this section are imposed on only the principal amount of the delinquent taxes.

(g) Notwithstanding any other provision, an ordinance adopted under this section may apply to the payment of amounts due under any reconciling statements issued by a county.

(h) Approval by the department of local government finance is not required for the adoption of an ordinance under this section.

SECTION 4. P.L.1-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 5. (a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9, and IC 6-1.1-21 apply throughout this SECTION.

(b) Subject to appropriation of money from the property tax reduction trust fund for an additional 2007 homestead credit, the department of local government finance shall calculate and certify to the department of state revenue and the county auditor of each county an additional homestead credit amount for property taxes first due and payable in 2007. **Except as provided in subsection (h),** the additional homestead credit shall be paid as a refund as provided in this SECTION for part of the tax liability (as defined in IC 6-1.1-21-5) imposed on the taxpayer's homestead for the March 1, 2006, or January 15, 2007, assessment date. The department of local government finance shall make the certification based on the best information available at the time the certification is made. Not later than November 1, 2007, the

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department of state revenue shall distribute to the county treasurer of each county the amount certified for the county under this subsection. The county treasurer shall deposit the amount distributed in a separate account and use the money only for the purposes of providing property tax refunds under this SECTION.

(c) **Except as provided in subsection (i)**, at the same time as the department of local government finance makes the certification under subsection (b), the department of local government finance shall certify to the county auditor of each county the percentage that would apply in each taxing district to provide an additional 2007 homestead credit to taxpayers in the taxing district. The county auditor shall use the certified percentage to determine the amount of the refund due to each taxpayer. The county auditor shall certify the amount of the refund for each taxpayer to the county treasurer not later than the December 20, 2007, settlement date. IC 6-1.1-26 does not apply to a refund granted under this SECTION. The amount of the refund is equal to the lesser of the following:

(1) The amount of the taxpayer's tax liability (as defined in IC 6-1.1-21-5) on a homestead for the March 1, 2006, or January 15, 2007, assessment date, after the application of all other credits.

(2) The additional 2007 homestead credit determined for the taxpayer.

The department of local government finance, the department of state revenue, and the property tax replacement fund board shall take the actions necessary to carry out this SECTION.

(d) A county legislative body may adopt an ordinance providing that the amount of the refund **or the amount of a credit under subsection (h)** shall be applied first against any delinquent property taxes owed in the county by the taxpayer.

(e) The county auditor shall issue a warrant for or authorize disbursement by electronic transfer of the remainder of the refund. The refund shall be:

(1) mailed to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book; or

(2) transmitted by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records.

(f) In addition, the county auditor shall mail to the last known

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address of each person liable for any property taxes or special assessment on each homestead in the county, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book a written explanation of the refund. The explanation must include the amount of the refund specified in the following statement in at least 12 point type:

"A portion of your local property taxes due in 2007 are being refunded due to tax relief provided by the Indiana General Assembly. Your refund is in the amount of \$\_\_\_\_\_ (insert amount of refund). If you did not receive a check because you pay your property taxes through an escrow account along with your mortgage, your lender will receive the refund and should adjust your payments accordingly."

(g) Any part of the amount distributed to a county under this SECTION that is not applied, ~~or~~ refunded, **or credited** as provided in this SECTION shall be transferred to the auditor of state for deposit in the property tax reduction trust fund.

**(h) This subsection applies only to a county that:**

- (1) issues property tax statements or revised property tax statements for the March 1, 2006, or January 15, 2007, assessment date after December 31, 2007; or**
- (2) issues a reconciling statement for the March 1, 2006, or January 15, 2007, assessment date after December 31, 2007.**

Notwithstanding any other provision in this SECTION, the fiscal body of a county subject to this subsection may adopt a resolution authorizing the county auditor and the county treasurer to apply the additional 2007 homestead credit under this SECTION in that county as a credit against property tax liability or as a refund. If the additional 2007 homestead credit is applied as a credit, the amount of a taxpayer's refund determined under subsection (c) shall instead be applied as a credit against the taxpayer's property tax liability as shown on the property tax statement or reconciling statement described in subdivision (1) or (2). If any part of the additional 2007 homestead credit remains after it has been applied against the taxpayer's property tax liability as shown on the property tax statement or reconciling statement described in subdivision (1) or (2), the county auditor and the county treasurer may apply the remaining part of the credit as a credit against the taxpayer's property tax liability for the March 1, 2007, or January 15, 2008, assessment dates or may refund the remaining part of the credit to the taxpayer in the same manner as refunds under this SECTION are otherwise payable. Subsection (f) does not apply to

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a credit applied under this subsection. The department of local government finance may prescribe procedures to apply the additional homestead credit under this subsection.

(i) This subsection applies only to a county:

(1) that, after December 31, 2007, issues bills or revised bills for property taxes first due and payable in 2007 or issues a reconciling statement for property taxes first due and payable in 2007; and

(2) in which the percentage increase in taxes billed exceeds thirty percent (30%) for more than one-half (1/2) of the homesteads in the county.

As used in this subsection, "increase in taxes billed" means the difference between the property taxes payable in 2007 and the property taxes payable in 2006 that are billed to a taxpayer, after application of the property tax replacement credit, the state homestead credit, and a local homestead tax credit, if any, and after excluding any increase in taxes billed that results from the new construction of a homestead on the taxpayer's property. As used in this subsection, "percentage increase in taxes billed" means the increase (expressed as a percentage) in taxes billed divided by the property taxes payable in 2006. Notwithstanding subsection (c), the county auditor of a county subject to this subsection shall determine under this subsection the amount of the additional 2007 homestead credit (payable as a refund) due to eligible taxpayers in the county. A taxpayer in a county subject to this subsection is eligible to receive an additional 2007 homestead credit (payable as a refund) under this SECTION if the percentage increase in taxes billed to the taxpayer is at least ten percent (10%). The amount of the additional 2007 homestead credit (payable as a refund) for an eligible taxpayer is equal to the greater of the amount required to reduce the percentage increase in taxes billed to thirty-five percent (35%) or the amount required to provide a twenty percent (20%) reduction in the increase in taxes billed (the product of the increase in taxes billed multiplied by twenty percent (20%)), except that this reduction may not reduce the percentage increase in taxes billed below ten percent (10%).

~~(h)~~ (j) This SECTION expires January 1, 2009.

SECTION 5. An emergency is declared for this act.

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## SENATE MOTION

Madam President: I move that Senators Jackman and Deig be added as coauthors of Senate Bill 21.

YOUNG R MICHAEL

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 COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 21, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-22.5-12, AS AMENDED BY P.L.219-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided by subsection (c), each reconciling statement must indicate:

- (1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;
- (2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;
- (3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

- (A) as a final reconciliation of the tax liability; and

- (B) not later than:

- (i) thirty (30) days after the date of the reconciling statement; ~~or~~

- (ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; **or**

- (iii) **the date specified in an ordinance adopted under section 18.5 of this chapter; and**

- (4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

- (b) If, upon receipt of the abstract referred to in section 6 of this

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chapter, the county treasurer determines that it is possible to complete the:

- (1) preparation; and
- (2) mailing or transmittal;

of the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement, the county treasurer may request in writing that the department of local government finance permit the county treasurer to issue a reconciling statement that adjusts the amount of the second installment that was specified in the provisional statement. If the department approves the county treasurer's request, the county treasurer shall prepare and mail or transmit the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement.

(c) A reconciling statement prepared under subsection (b) must indicate:

- (1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;
- (2) the total amount of the first installment paid under the provisional statement for the property for which the reconciling statement is issued;
- (3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount of the second installment that is payable by the taxpayer:
  - (A) as a final reconciliation of the tax liability; and
  - (B) not later than:
    - (i) November 10; or
    - (ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and
- (4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

SECTION 2. IC 6-1.1-22.5-18, AS AMENDED BY P.L.219-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. For purposes of IC 6-1.1-24-1(a)(1):

- (1) the first installment on a provisional statement is considered to be the taxpayer's spring installment of property taxes;
- (2) except as provided in subdivision (3) **or section 18.5 of this chapter**, payment on a reconciling statement is considered to be due before the due date of the first installment of property taxes

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payable in the following year; and

(3) payment on a reconciling statement described in section 12(b) of this chapter is considered to be the taxpayer's fall installment of property taxes.

SECTION 3. IC 6-1.1-22.5-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) A county council may adopt an ordinance to allow a taxpayer to make installment payments under this section of a tax payment due under a reconciling statement issued under this chapter or any other provision.**

**(b) An ordinance adopted under this section must specify:**

- (1) the reconciling statement to which the ordinance applies; and**
- (2) the installment due dates for taxpayers that choose to make installment payments.**

**(c) An ordinance adopted under this section must give taxpayers in the county the option of:**

- (1) making a single payment of the tax payment due under the reconciling statement on the date specified in the reconciling statement; or**
- (2) paying installments of the tax payment due under the reconciling statement over the installment period specified in the ordinance.**

**(d) If the total amount due on an installment date under this section is not completely paid on or before that installment date, the amount unpaid is considered delinquent and a penalty is added to the unpaid amount. The penalty is equal to an amount determined as follows:**

**(1) If:**

- (A) the delinquent amount of real property taxes is completely paid on or before the date thirty (30) days after the installment date; and**
- (B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for the same parcel;**

**the amount of the penalty is equal to five percent (5%) of the delinquent amount.**

**(2) If:**

- (A) the delinquent amount of personal property taxes is completely paid on or before the date thirty (30) days after the installment date; and**

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**(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for a personal property tax return for property in the same taxing district;**

**the amount of the penalty is equal to five percent (5%) of the delinquent amount.**

**(3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the delinquent amount.**

**(e) An additional penalty equal to ten percent (10%) of any taxes due on an installment date that remain unpaid shall be added on the day immediately following the date of the final installment payment.**

**(f) The penalties under this section are imposed on only the principal amount of the delinquent taxes.**

**(g) Notwithstanding any other provision, an ordinance adopted under this section may apply to the payment of amounts due under any reconciling statements issued by a county.**

**(h) Approval by the department of local government finance is not required for the adoption of an ordinance under this section."**

Page 1, line 1, delete "P.L.234-2007, SECTION 300," and insert "P.L.1-2008, SECTION 5,".

Page 1, line 3, delete "300." and insert "5.".

Page 1, line 10, delete "(g)," and insert "**(h)**,".

Page 2, line 4, delete "At" and insert "**Except as provided in subsection (i), at**".

Page 2, line 24, delete "The" and insert "A county legislative body may adopt an ordinance providing that the".

Page 2, line 25, delete "(g)" and insert "**(h)**".

Page 2, line 26, before "The" begin a new paragraph and insert: "**(e)**".

Page 2, line 37, delete "(e)" and insert "**(f)**".

Page 3, line 9, delete "(f)" and insert "(g)".

Page 3, line 13, delete "(g)" and insert "**(h)**".

Page 3, line 37, delete "(e)" and insert "**(f)**".

Page 3, between lines 40 and 41, begin a new paragraph and insert: "**(i) This subsection applies only to a county:**

**(1) that, after December 31, 2007, issues bills or revised bills for property taxes first due and payable in 2007 or issues a reconciling statement for property taxes first due and payable in 2007; and**

**(2) in which the percentage increase in taxes billed exceeds**

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thirty percent (30%) for more than one-half (1/2) of the homesteads in the county.

As used in this subsection, "increase in taxes billed" means the difference between the property taxes payable in 2007 and the property taxes payable in 2006 that are billed to a taxpayer, after application of the property tax replacement credit, the state homestead credit, and a local homestead tax credit, if any, and after excluding any increase in taxes billed that results from the new construction of a homestead on the taxpayer's property. As used in this subsection, "percentage increase in taxes billed" means the increase (expressed as a percentage) in taxes billed divided by the property taxes payable in 2006. Notwithstanding subsection (c), the county auditor of a county subject to this subsection shall determine under this subsection the amount of the additional 2007 homestead credit (payable as a refund) due to eligible taxpayers in the county. A taxpayer in a county subject to this subsection is eligible to receive an additional 2007 homestead credit (payable as a refund) under this SECTION if the percentage increase in taxes billed to the taxpayer is at least ten percent (10%). The amount of the additional 2007 homestead credit (payable as a refund) for an eligible taxpayer is equal to the greater of the amount required to reduce the percentage increase in taxes billed to thirty-five percent (35%) or the amount required to provide a twenty percent (20%) reduction in the increase in taxes billed (the product of the increase in taxes billed multiplied by twenty percent (20%)), except that this reduction may not reduce the percentage increase in taxes billed below ten percent (10%)."

Page 3, line 41, delete "(g) (h)" and insert "~~(h)~~ (j)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 21 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 1.

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